

SENATE BILL 3941

By Herron

AN ACT to amend Chapter 131 of the Private Acts of 2004, as amended by Chapters 36 and 37 of the Private Acts of 2007, Chapters 80 and 100 of the Private Acts of 2008, and all other acts amendatory thereto, relative to the Charter of the City of Lexington.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Section 7 of Chapter 131 of the private acts of 2004, as amended by Chapter 37 of the Private Acts of 2007, Chapter 100 of the Private Acts of 2008, and any other acts amendatory thereto, is amended by adding the following language to Section 7:

At the municipal election conducted in September 2011 the four (4) aldermen elected to positions 1, 2, 3, and 7 shall be elected to a four-year term of office that expires on the first Monday of October 2015. The Mayor and the three (3) aldermen elected to positions 4, 5 and 6 shall be elected to a two-year term of office that expires on the first Monday of October 2013. At the municipal election conducted in September 2013, the mayor and the three (3) aldermen elected to positions 4, 5 and 6 shall be elected to a four-year term of office that expires on the first Monday of October 2017. Following the election in September 2013 the term of office for the mayor and aldermen shall be four (4) years and elections shall be held biennially in odd-numbered years

SECTION 2. Section 11 of Chapter 131 of the private acts of 2004, as amended by Chapter 36 of the Private Acts of 2007, and any other acts amendatory thereto, is amended by deleting the section in its entirety and substituting instead the following:

SECTION 11. The Board of Mayor and Aldermen shall, at the regular meeting in October following a City election, elect, for a term of two (2) years, an Alderman to the office of Vice-Mayor who shall serve as Mayor when the Mayor is absent or unable to

discharge the duties of the Mayor's office, and, in case of a vacancy in the office of Mayor, until the position is filled by the members of the Board. The Vice-Mayor shall have a voice a vote when serving as Mayor.

SECTION 3. Section 14 of Chapter 131 of the Private Acts of 2004, as amended by Chapter 80 of the Private Acts of 2008, and any other acts amendatory thereto, is amended by deleting the section in its entirety and substituting instead the following:

SECTION 14. Electric Utility and creation of the Lexington Electric Utility Board

(a) The City of Lexington shall have the power, pursuant to Tennessee Code Annotated, Section 7-52-103, to:

(1) Acquire, improve, operate and maintain within or without the corporate or county limits of such municipality, and within the corporate or county limits of any other municipality, with the consent of such other municipality, an electric plant and to provide electric service to any person, firm, public or private corporation, or to any other user or consumer of electric power and energy, and charge for the electric service;

(2) Acquire, improve or use jointly with any other municipality a transmission line or lines together with all necessary and appropriate facilities equipment and appurtenances for the purpose of transmitting power and energy or connecting their respective electric plants with a wholesale source of supply and, to this end, such municipality may provide by contract for the method of holding title, for the allocation of responsibility for operation and maintenance and for the allocation of expenses and revenues;

(3) Accept grants, loans or other financial assistance from any federal agency for or in aid of the acquisition or improvement of any electric plant

(4) Contract debts for the acquisition or improvement of any electric plant, borrow money, and issue bonds and notes pursuant to Tennessee Code Annotated, Title 9, Chapter 21 to finance such acquisition or improvements;

(5) Acquire, hold and, subject to the applicable provisions of any bond or contracts, dispose of any property, real or personal, tangible or intangible, or any

right or interest in any such property in connection with any electric plant, whether or not subject to mortgages, liens, charges or other encumbrances;

(6) Make contracts and execute instruments containing such covenants, terms and conditions as in the discretion of the municipality may be necessary, proper or advisable for the purpose of obtaining loans from any source, or grants, loans or other financial assistance from any federal agency; make all other contracts and execute all other instruments as in the discretion of the municipality may be necessary, proper or advisable in or for the furtherance of the acquisition, improvement, operation and maintenance of any electric plant and the furnishing of electric service; and carry out and perform the covenants and terms and conditions of all such contracts and instruments;

(7) Enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations in connection with the acquisition, improvement, operation or maintenance of any electric plant and the furnishing of electric service;

(8) Promote economic and industrial development through participation both as a borrower and a lender in various programs established by the rural electrification administration or other federal programs;

(9)

(A) Accept and distribute voluntary contributions for bona fide economic development or community assistance purposes pursuant to programs approved by the electric utility board, which programs may include, but shall not be limited to, programs in which utility bills are rounded up to the next dollar when such contribution is shown as a separate line on the utility bill;

(B) Contributions accepted by a municipal electric plant pursuant to programs authorized by this subdivision (9) shall not be considered revenue to the municipal electric plant or the municipality's other utility

systems, and such contributions shall be used only for economic development or community assistance purposes; and

(10) Do all acts and things necessary or convenient to carry out the powers expressly given in this section.

(b) The Lexington Electric Utility Board is hereby created and established and shall be composed of one alderman and four (4) private citizens, each to be appointed by the Mayor with the consent of the Board of Aldermen. The initial terms of the initial five (5) appointees shall be as follows: The four private citizens shall be appointed for one (1), two (2), three (3), and four (4) years respectively, as the mayor shall designate. Successors shall be appointed for a term of four (4) years. The term of the alderman shall be for such time as the mayor may fix, but in no event to extend beyond the member's term of office in such governing body. Appointments to complete unexpired terms of office shall be made in the same manner as original appointments. The Lexington Electric Utility Board members shall serve at the will and pleasure of the Board of Mayor and Aldermen.

(1) A General Manager of the Electric Department shall be appointed by the Mayor and Board of Mayor and Aldermen to serve as the chief executive officer of the Electric Department of the City of Lexington. This officer shall work under the immediate direction of the Mayor, Board of Mayor and Aldermen and the Electric Utility Board and shall hold this position under the appointing Mayor and Board of Mayor and Aldermen and all subsequent Mayors and Boards of Aldermen until removed from the office for cause or resignation. The General Manager or his or her designees shall be responsible for implementing and enforcing the policies relevant to the administration and operation of the electric department, and other such duties and required by the Mayor, Board of Mayor and Aldermen and Electric Utility Board. The General Manager must reside within the corporate City limits and shall take an oath to faithfully perform the duties of this office.

(2) The Electric Utility Board shall make recommendations to the Board of Mayor and Aldermen as to system improvements; customer rates and charges for services, policies and procedures for administrative, financial, operational, and personnel practices; and, other such recommendations, rules and regulations as it may deem necessary to govern the furnishing of electric services all of which recommendations shall be subject to approval by the Board of Mayor and Aldermen, and may disburse all moneys available in the electric plant funds hereinafter established for the acquisition, improvement, operation and maintenance of the electric plant subject to approval by the Board of Mayor and Aldermen.

(c) The General Manager shall prepare a budget estimate for the electric plant with the approval of the Electric Utility Board for inclusion in the general budget of the City of Lexington for submission to the Board of Mayor and Aldermen as the budgets for other departments of the City of Lexington are submitted and processed.

(d) Issuance of Bonds and Notes. The authority given the City of Lexington to issue bonds or notes may be exercised for the benefit of the electric plant or a part thereof in accordance with the provisions of this charter or in accordance with other statutory authority. However, no bonds or notes payable out of the revenues of the electric plant or a part thereof shall be issued without the consent and approval of the Board of Mayor and Aldermen, which consent and approval may be given by a resolution or resolutions of the Board of Mayor and Aldermen which may be adopted at the same meeting at which introduced and shall take effect immediately upon adoption. Where such bonds or notes are payable only out of the revenues of the electric plant or a part thereof and are not general obligation bonds or general obligation notes of the City of Lexington, the Board of Mayor and Aldermen shall have full authority to provide for the issuance of such bonds or notes, without submitting to electors or taxpayers the question of issuing such bonds or notes, or the ordinance or resolution authorizing the same.

SECTION 4. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Board of Mayor and Aldermen of the City of Lexington. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Lexington and certified to the secretary of state.

SECTION 5. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 4.